
Appeal Decision

Site visit made on 29 June 2022

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 July 2022

Appeal Ref: APP/L2250/W/21/3285225

Land East of The Street, Lympne CT21 4LQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by G & S de Margary against the decision of Folkestone and Hythe District Council.
 - The application Ref 20/1184/FH, dated 13 August 2020, was refused by notice dated 13 May 2021.
 - The development proposed is described as the erection of 5 dwellings, together with parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. When the Council made its decision, the Core Strategy Review was at its February 2020 draft stage. Since then, it has been through a further formal review and found to be sound. The Core Strategy was accordingly adopted by the Council on 30 March 2022 and is now part of the development plan.
3. The parties, where relevant, refer to the latest adopted Core Strategy in their evidence and on this basis, I do not consider any party to be unfairly disadvantaged by the adoption of the Core Strategy.

Main Issues

4. The main issues are whether the proposed development would:
 - Provide a suitable location for new residential development having regard to the spatial strategy of the development plan;
 - Conserve, protect or enhance the natural beauty of the landscape and scenic beauty of the Kent Downs Area of Outstanding Natural Beauty (AONB), and preserve or enhance the Lympne Conservation Area; and
 - Effect the living conditions of the neighbouring occupants with particular reference to overlooking.

Reasons

Suitable Location

5. Although it is sited close to it, the appeal site falls outside a defined settlement boundary. Policy SS1 of the Core Strategy indicates that development will be delivered through strategic allocations, it also states that development in the

open countryside will only be allowed exceptionally, where a rural location is essential. Policies SS1 and SS3 state that remaining development needs should be focused on previously developed land in the most sustainable towns and villages.

6. The appeal site is located close to the settlement area of Lympe and as a Primary Village is identified as having a role of contributing to the “strategic aims and local needs, with potential to grow and serve residents”. However, the appeal site falls outside of this settlement and is not previously developed land. I have also not been provided with compelling evidence that the proposed development would meet any policy exceptions set out in the special strategy.
7. I therefore find that the proposal would not be in a suitable location having regard to the spatial strategy in the development plan and would conflict with the relevant provisions of Policies SS1, SS2, SS3, and CSD3 of the Core Strategy and the National Planning Policy Framework (the Framework).

Character and Appearance

8. There is residential development near to and scattered development beyond the site. Nonetheless, the appeal site is broadly laid to grass and surrounded by mature trees. Despite its proximity to the village of Lympe, the immediate area has a rural character. This undeveloped appearance of the appeal site contributes positively to and assimilates into the wider character of the area.
9. The site is partly located within a Conservation Area. The Lympe Conservation Area Appraisal identifies The Street as a long avenue leading to a historic Castle and Church. The significance the Conservation Area is, in part, derived from an open character contributing toward views into and out of the Conservation Area. This sense of an open, rural, undeveloped natural space as one enters and leaves the historic sections of the Conservation Area are particularly important. During my site visit it became clear that the open and undeveloped character of the appeal site forms a key part of the experience of traveling into and out of this historic area.
10. The proposed development would include the erection of five houses on the site with associated car ports and parking barns. Some of the existing dwellings face onto The Street, others are orientated 90 degrees with flank walls facing the street. Some dwellings are also set forward within their plots and some set back behind deeper frontages. This variation adds some interest and reflects the organic growth of the area. I therefore find no harm arising from the proposed layout of the development when considered in the context of the existing buildings.
11. However, the visual presence of 5, two storey dwellings, carports, car barns, plot boundary treatments, an access road and associated domestic paraphernalia would significantly erode the open and spacious character of this part of the Conservation Area. Although lower roof pitches and reduced eaves heights would be incorporated into the design to lessen the presence of the dwellings, this would not mitigate the loss of an open and undeveloped plot on this side of The Street.
12. I note the concerns raised about coalescence of development and the spread of development from the village. The existing undeveloped nature of the appeal site provides valuable visual relief into and out of the Conservation Area from

both the Street and the public footpath to the rear of the appeal site. The erosion of this open character would harm the significance of the Conservation Area particularly as one enters and leaves the historical area.

13. While trees and vegetation do exist to the boundaries offering some screening and additional planting would be proposed, views are currently possible through the trees from both The Street and public footpath to the rear. Any new planting would take time to establish and notwithstanding this, during autumn and winter such screening would also be reduced due to leaf fall.
14. I have also considered the appellants comments about the history of the appeal site, changing boundaries and the wider Conservation Area. While boundaries may have moved, the evidence suggests the site has remained broadly undeveloped over time and this makes a positive contribution to the Conservation Area as set out above. In any event, my decision is made based on the current designation.
15. The appeal scheme would consequently fail to either preserve or enhance the character or appearance of the Lympe Conservation Area. In terms of the approach set out in the Framework, the proposal would cause less than substantial harm to the Conservation Area's significance as a designated heritage asset.
16. The Framework is clear that irrespective of the level of harm, great weight should be given to the asset's conservation and, where a development proposal would lead to less than substantial harm, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
17. The appeal proposal would contribute toward family sized homes in an appropriate location and toward housing supply more generally. The proposed development would also contribute to the vitality of a rural community, boost population in the village, incorporate sustainable design and construction measures, and provide level pedestrian access into the dwellings. Taken as a whole and given the scale of the scheme, these benefits carry moderate weight. However, these modest benefits derived from 5 houses would not outweigh the great harm to the Conservation Area.
18. The site is located within an AONB, Paragraph 176 of the Framework identifies that great weight should be given to conserving and enhancing the landscape and scenic beauty of AONBs. The loss of the open space and subsequent urbanisation of this space would harm the tranquillity and beauty of this part of the AONB as well as the open character of the Countryside.
19. While the benefits as listed above at paragraph 17 are noted again, for the same reasons these modest benefits derived from 5 houses would not outweigh the great harm to the AONB.
20. I have been provided with appeal reference APP/W3520/W/18/3209219 for Land north of Church Road, Bacton, Stowmarket, Suffolk. This was an outline application with all matters reserved, except access. This application, amongst other things, offered substantially more dwellings than the current appeal and included affordable provision. New publicly accessible areas of open space in exceedance of policy requirements were also proposed. These public benefits were found to attract substantial weight which outweighed the identified

landscape and heritage harm. The scale and nature of benefits are different in this current appeal, and I cannot, therefore, be certain that this previous appeal has sufficient similarities for any meaningful comparisons to be made. I therefore ascribe this limited weight.

21. For the above reasons, the appeal scheme would conflict with the relevant provisions of Policy HB1, HB2, HE1, C1 and NE3 of the Local Plan, the CAA and the Framework which, amongst other things, seek to ensure that development conserves, protects or enhances the natural beauty of the landscape and scenic beauty of AONBs, the Conservation Area and the Countryside.

Living Conditions

22. First floor bedroom windows within Units 4 and 5 would face Lymgne Villa. Lymgne Villa fronts onto The Street with its flank side facing the appeal site. A vehicular access runs down the side of Lymgne Villa to outbuildings sited at the rear end of Lymgne Villa's garden.
23. Given the distances from Unit 4 to the shared boundary in combination with the intervening access drive which runs the depth of the rear garden, I find that the private rear garden areas of Lymgne Villa would be sited a suitable distance to prevent any adverse overlooking.
24. The forward siting of Unit 5 toward The Street and its distance from the rear garden of Lymgne Villa, would cause views into this rear garden to be restricted. This in combination with the access driveway and garage facilities would also limit any adverse overlooking to this rear garden area.
25. the proposed development would therefore not have a harmful effect upon the living conditions of the occupiers of Lymgne Villa with particular reference to overlooking. The proposal therefore complies with the relevant provisions of Policy HB1 of the Local Plan. This, amongst other things, addresses the need for high quality design therefore respecting the living conditions of neighbouring occupiers.

Other Matters

26. Interested parties raise concern that population decline in the village will threaten local amenities such as shops and the school. Given the small scale of this proposal, I ascribe this limited weight.
27. Interested parties have also raised concerns about potential highway, noise and disturbance impacts both during and after the construction period. Concerns have also been raised in respect to the living conditions of future occupants and the impact on the existing horses which graze the land. Given this appeal is being dismissed, there is no need for me to consider these matters further. Even if I were to find no harm in these respects, this would only be a neutral factor and not weigh in favour of the scheme.
28. While the Council can demonstrate a five-year supply of deliverable housing land, the appellant's evidence suggests the Council's housing land supply and delivery is expected to fall short over the current 5-year period and this is reflected in the latest Housing Delivery Test (HDT) which shows a score of 91%.

29. The HDT is not significantly below the 95% target and I note that the Council's Annual Monitoring Report 2021 sets out a 'stepped' housing requirement which proposes to balance a reduced level of delivery in the early plan period with over-delivery in later years, to allow time for key strategic allocations to come forward for delivery such as a new town at Otterpool. This approach is also confirmed in the recently adopted Core Strategy and I have not been provided with evidence that windfall sites within the settlement areas are unlikely to come forward. Therefore, and on the evidence that is before me, I do not consider the latest HDT score to undermine the Council's housing land supply.
30. The appellant also suggests that the timescales and delivery rates for housing completions at Otterpool are optimistic. However, no evidence is provided to substantiate this. The Council have confirmed that an outline planning application for the erection of a significant number of dwellings (amongst other elements) has been lodged and is under consideration, the appellant has not disputed this. I therefore cannot conclude, with a degree of certainty, that timescales and delivery rates for housing completions at Otterpool are under threat.
31. Even if that is not the case, from the evidence before me, the level of housing supply and HDT results do meet the thresholds set out at footnote 8 of the Framework and even if it did, given the harm I have found in relation to the AONB and the Conservation Area, paragraph 11dii of the Framework would not be engaged. Therefore, the development proposal does not benefit from the presumption in favour of sustainable development.
32. The appeal proposal would contribute toward family sized homes in an appropriate location and toward housing supply more generally. The proposed development would also contribute to the vitality of a rural community, boost population in the village, incorporate sustainable design and construction measures, and provide level pedestrian access into the dwellings. Taken as a whole and given the scale of the scheme, these benefits carry moderate weight.
33. I have also found the impact of the proposed development to be acceptable in respect to the living conditions of neighbouring occupants. Although, the absence of harm in this regard is a neutral matter.
34. However, the site does not fall within a suitable location for new residential development. It also does not conserve, protect or enhance the natural beauty of the landscape and scenic beauty of the AONB, the Lympne Conservation Area or the Countryside. This harm in combination carries great weight, which is not outweighed by the benefits listed above, either alone or in combination.

Conclusion

35. The appeal scheme would therefore conflict with the development plan as a whole for the reasons I have given. There are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal should therefore be dismissed.

N Praine

INSPECTOR